



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Baird Corporation--Second Reconsideration
File: B-228190.3
Date: November 2, 1987

DIGEST

1. General Accounting Office will not review a protest that specifications are not restrictive enough to meet the government's minimum needs.
2. Alleged violation of a Department of the Air Force regulation setting forth internal policies does not provide a valid basis for protest.

DECISION

Baird Corporation requests that we reconsider our dismissal of Baird's protest that the Department of the Air Force request for proposals No. F41608-87-R-1605, issued to procure inductively coupled spectrometers, failed to limit offers to systems based on the Baird Fluid Analysis Spectrometer FAS-2C. See Baird Corp.--Reconsideration, B-228190.2, Oct. 5, 1987, 87-2 C.P.D. ¶ ____. In its protest, Baird alleged that the procurement of any untested "state-of-the-art" system will have an adverse effect on the Department of Defense Joint Oil Analysis Program (JOAP); the FAS-2C system is the only system that is compatible with the systems currently in use; and the FAS-2C is the only system that has been field tested to insure proper performance.

We deny Baird's request.

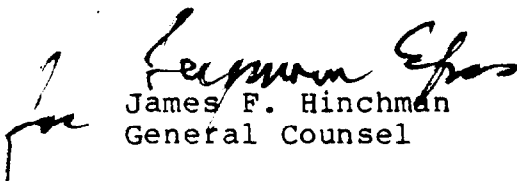
We dismissed Baird's protest because the role of our Office is to insure that the statutory requirement for full and open competition in the award of government contracts is met, and our Office therefore will not review a protest that an agency should have drafted more restrictive specifications to meet the protester's definition of the agency's needs. Baird now contends that we did not address all areas of Baird's protest. Specifically, Baird asserts that the procurement violates United States Air Force Regulation 400-68, which sets the policy for the JOAP. Baird further asserts that we have failed to consider the negative impact

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this procurement will have on the JOAP, in that the Air Force will be purchasing instruments that do not correlate with those already in JOAP laboratories and which effectively cannot be used by the other military departments.

Baird's request for reconsideration does not provide a basis for our Office to object to the procurement. First, the essence of Baird's protest still is that the procurement should be limited to Baird's spectrometer, a matter we previously stated is not within the purview of our bid protest function. Further, insofar as Baird is concerned that the procurement will have a negative impact on the JOAP, procuring officials and user activities, not our Office, are responsible for ensuring that specifications meet the government's legitimate needs and adequately protect the government's interest, since they suffer the consequences of problems encountered during performance. Sparklet Devices, Inc., B-223089, May 22, 1986, 86-1 C.P.D. ¶ 482. Finally, the cited Air Force regulation involves an internal matter of executive policy which is for the guidance and benefit of government personnel. The regulation does not have the force and effect of law, so that the fact that the procurement may not conform to it would not make the solicitation subject to legal objection by our Office in a bid protest. See American Contract Services, Inc., B-225182, Feb. 24, 1987, 87-1 C.P.D. ¶ 203.

The request for reconsideration is denied.


James F. Hinchman
General Counsel